

REMARKS/ARGUMENTS

The Status of the Claims.

Claims 31, 34, 35, 39, 41 to 44, 46 to 49, 51 and 54 to 61 are pending with entry of this amendment. No claims are cancelled or added herein. No claims are amended herein. The subject matter of the claims is unchanged in this Response.

Case Status.

The present application was subject to a Notice of Abandonment of June 1, 2010, for failure to respond to the non-final Office Action of November 13, 2010.

Applicants have petitioned the Patent Office to withdraw the holding of abandonment on the ground that the Office Action was not delivered, with a contingent petition to revive for unintentional abandonment.

Claim Objections.

Claims 48 and 49 were objected to for allegedly being identical. However, Applicants note that claim 48 is directed to embodiments wherein, e.g., the O-RS optionally includes one mutation "or" another, while claim 49 is directed to an embodiment wherein the O-RS includes all ("and") the identified mutations. The claims are therefore of different scope.

Applicants request the objections be withdrawn.

35 U.S.C. §103(a).

Applicants appreciate that previous remarks of the Interviews and the Response of June 18, 2009, have been persuasive and the rejections have been withdrawn.

Double Patenting.

Claims have been rejected based on the judicially created doctrine of obviousness-type double patenting based on U.S. patent number 7,494,769. Applicants note that the cited claims are substantially different from the present claims. However, Applicants note that the present invention has ownership in common with the cited patent. In the spirit

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of cooperation and in order to expedite the present application, Applicants have enclosed herein a Terminal Disclaimer regarding the cited patent. Therefore, the point is moot and Applicants request withdrawal of the rejection for alleged obviousness-type double patenting.

CONCLUSION

In view of the foregoing, Applicants believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the claims are deemed not to be in condition for allowance after consideration of this Response, a telephone interview with the Examiner is hereby requested. Please telephone the undersigned at (510) 769-3510 to schedule an interview.

QUINE INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 458, Alameda, CA 94501
Tel: 510 769-3510
Fax: 510 337-7877
PTO Customer No.: 22798
Deposit Account No.: 50-0893

Respectfully submitted,


Gary Baker
Reg. No: 41,595

Attachments:

- 1) A Petition to Withdraw Holding of Abandonment;
- 2) A Declaration supporting Petition;
- 3) Terminal Disclaimer;
- 4) Certification under 37 CFR 3.73(b);
- 5) A transmittal sheet;
- 6) A fee transmittal sheet; and,
- 7) A receipt indication postcard.